

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2092.04
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	February 11, 2004
DATE OF REPORT:	March 24, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	May 10, 2004

COMPLAINT ISSUES:

Whether the Gary Community Schools violated:

511 IAC 7-26-2(d) by failing to ensure that professional and paraprofessional staff serving the student receive specialized inservice training in area of the student's disability.

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically, failing to:

- a. provide the required speech therapy;
- b. conduct an assessment by the Autism Team; and
- c. assign an additional paraprofessional to the student's classroom.

The Associate Superintendent (Director of the Division of Exceptional Learners) granted an extension of time, due to the receipt of additional documentation. The new completion date was March 26, 2004.

FINDINGS OF FACT:

1. The Student is eleven years old and is eligible for special education and related services as a student with an autism spectrum disorder, severe mental disability, and communication disorder. The Student is the same Student who was the subject of Complaint #2005.03.
2. The School acknowledges that, as of the date this Complaint was filed (February 11, 2004), the Student's current special education teacher of record (TOR) had not attended specialized inservice training in autism. The TOR has been the Student's classroom teacher since the beginning of the 2003-2004 school year.
3. The School acknowledges that the paraprofessionals assigned to the Student's current classroom have not attended specialized inservice training in autism.
4. The School acknowledges that the speech/language pathologist (SLP) assigned to the Student has not attended specialized inservice training in autism.
5. During the 12-month period preceding the filing of this Complaint, inservice training in autism has been offered on the following dates: May 1, 2003; June 16 - 18, 2003; August 12, 2003; October 7, 2003; and December 19, 2003. In addition, inservice training in autism was offered on February 13, 2004, and March 4, 2004. The School compensates teachers and other school personnel when inservice

training is scheduled after school hours or during the summer. The School provides substitute teachers when inservice training is scheduled during school hours.

6. On February 26, 2004, the Superintendent notified an administrator that the Student's TOR had not yet attended mandatory inservice training in autism. On March 4, 2004, the TOR attended a day-long inservice training conducted by members of the School's Autism Team.
7. The Student's individualized education program (IEP) that was in effect since February 18, 2003, called for 30-minutes of speech/language services two times weekly. The School acknowledges that, due to the SLP's absences, the Student did not receive 11 hours of speech/language services that should have been provided. However, according to the log provided in connection with this Complaint investigation, there was a delay in starting services at the beginning of the 2003-2004 school year in addition to the SLP's subsequent absences, and the Student received a total of 9 hours of speech/language services when the Student should have received a total of 21 hours of services, for a deficit of 12 hours, as of the date this Complaint was filed.
8. The School acknowledges that speech/language services for other students served by the same speech/language pathologist were also not provided in accordance with their respective individualized education programs.
9. The School issued a Request for Proposal for Professional Services for Speech Therapy Services, for which responses were to be submitted no later than December 19, 2003.
10. On February 18, 2003, the Student's case conference committee (CCC) decided to obtain additional information and to reconvene the CCC when that information was obtained. Specifically, the IEP states that the special education department "will contact the Autism Center in Indianapolis: (1) 1-812-855-6508 IU School of Medicine, (2) Provide additional assessment." The phone number is the number of the Indiana Resource Center for Autism (Center). The Center is neither located in Indianapolis nor connected with the IU School of Medicine. The School and the Complainant agree that the CCC's intent was to arrange for the Center to conduct an assessment of the Student.
11. An assessment by the Center was not conducted. The Program Supervisor did contact the Center as contemplated by the CCC. The Program Supervisor's recollection is that the Center's response was that the assessment of the Student should be conducted by the School's Autism Team. The Center Director generally recalls communications with the Program Supervisor, although the Center Director has no specific recollection of communications with either the Program Supervisor or the Complainant regarding the Student. The Center Director has confirmed that the Program Supervisor's recollection is consistent with the Center's standard responses to requests for evaluations. The Center does not conduct educational evaluations or formal assessments, as contemplated by 511 IAC 7-25 or 511 IAC 7-26. Under its Guidelines for Individual Consultations, the Center provides consultation services, including an observation of a student in his/her classroom, followed by a meeting with the student's team (family, teachers, service providers, etc.) to discuss programming recommendations. The Center's Guidelines encourage the utilization of local expertise, including a local Autism Team, before contacting the Center. However, the local Autism Team did not conduct an observation or assessment of the Student following the CCC meeting on February 18, 2003.
12. In addition, the CCC agreed upon an occupational therapy (OT) assessment. An OT assessment had not been conducted as of the date of the filing of this Complaint.
13. An OT assessment was conducted on March 17, 2004. A Behavior Assessment was conducted November 18, 2002, by the Behavior Specialist who is a member of the School's Autism Team, and an

Update Assessment was conducted on March 10, 2004. In anticipation of reconvening the CCC, the School has also arranged for the psychologist who is a member of the School's Autism Team to conduct an individualized standardized test of learning capability (i.e., an IQ test). The Student's IEP also calls for the Student's participation in the State Alternate Assessment now known as ISTAR. The ISTAR data are additional information for the CCC to consider.

14. The Student's IEP dated February 18, 2003, includes a CCC decision to provide additional classroom assistance. Specifically, the IEP refers to additional classroom assistance to:
 - (1) Work with groups while teachers work 1-1 with Student.
 - (2) Provide supervision during specials and lunch time.
 - (3) Reinforce direct instruction provided/modeled by the teacher.Parateacher collaboration and additional classroom assistance are also listed among supports for personnel. With respect to accommodations necessary for participation in nonacademic and extracurricular activities with nondisabled peers, the Student's IEP indicates that the Student needs adult supervision at all times.
15. The Complainant has observed the Student's classroom at times when only one paraprofessional was in the classroom.
16. Although the School reported that two paraprofessionals have been assigned to the Student's classroom(s) since February 18, 2003, the School has not provided documentation of paraprofessional assignments to specific classrooms. There is a floating aide available to cover assignments when a paraprofessional is absent. The paraprofessionals stagger their lunch hours so that at least one paraprofessional is available.

CONCLUSIONS:

1. Finding of Fact #1 indicates that the Student has a disability within the autism spectrum, and Findings of Fact #2, #3, and #4 indicate that professional and paraprofessional staff serving the Student have not received specialized inservice training in the area of autism spectrum disorders. Although Finding of Fact #5 indicates that the School has offered inservice training, the rule requires staff serving students with autism spectrum disorder to receive training, not merely opportunities for training. Therefore, a violation of 511 IAC 7-26-2(d) occurred. However, Finding of Fact #6 indicates that appropriate corrective action has been taken with respect to the TOR's training in autism.
2.
 - a. Finding of Fact #7 indicates that the Student's individualized education program (IEP) was not implemented as written, due to an interruption of speech/language services. Finding of Fact #8 indicates that there are other similarly-situated students. Therefore, violations of 511 IAC 7-27-7(a) occurred by failing to provide the speech/language services as required by the Student's IEP and by other students' individualized education programs. Finding of Fact #9 indicates that a partial corrective action has been initiated.
 - b. Findings of Fact # 10, #11, and #12 indicate that certain assessments called for by the Student's IEP had not been conducted as of the date that this Complaint was filed. Therefore, a violation of 511 IAC 7-27-7(a) occurred by failing to conduct agreed assessments including an assessment by the Center or the Autism Team and an OT assessment. However, Finding of Fact #13 indicates that some corrective action has been taken.
 - c. Although Finding of Fact #14 indicates that the Student's IEP does not call for the Student to receive 1:1 services at all times or call for a 1:1 aide to be assigned to the Student, Findings of Fact #15 and #16 indicate that the School has not documented that additional classroom

assistance was provided. Therefore, a violation of 511 IAC 7-27-7(a) occurred in connection with providing additional classroom assistance.

The Department of Education, Division of Exceptional Learners requires the following additional corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

Gary Community School Corporation shall:

1. Either (a) arrange for the speech/language pathologist providing services to the Student and the paraprofessionals assigned to the Student's classroom to attend inservice training in autism by April 23, 2004, or (b) assign a speech/language pathologist and paraprofessionals who have had training in autism.

2. a. By April 9, 2004, develop a written plan for providing compensatory speech/language services to the Student during the 2003-2004 school year, and begin implementation of the plan by April 16, 2004.

By April 16, 2004, send a written notification to the parents of the other students whose speech/language services were delayed or interrupted, inviting those parents to request a case conference committee meeting to consider compensatory services.

Review the Memorandum dated August 25, 1998, from the State Director of Special Education regarding Direction For Providing Speech and Language Services, and report on the outcome of the Request for Proposals for Professional Services: Speech Therapy Services R.F.P. #SEST03-9.

- b. By April 23, 2004, complete the additional assessment(s) that the School determines are needed in order to develop, review, and revise the Student's IEP, and by April 30, 2004, reconvene the Student's case conference committee.
- c. By April 9, 2004, develop a system for monitoring the classroom assistance in the Student's classroom including the amount of time that the teacher provides 1:1 instruction to the Student and the amount of time a paraprofessional reinforces direct instruction provided/modeled by the teacher.

Documentation of compliance shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by May 7, 2004.